



1. *Pr* *Dte* *RCE*
Docket No. 66236/JPW/GJG/LM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : C. Dominique Toran-Allerand

Serial No. : 10/665,847

Examiner: Nirmal S. Basi

Filed : September 19, 2003

Group Art Unit: 1646

For : NOVEL CELL-SURFACE ESTROGEN RECEPTOR AND RELATED
COMPOSITIONS AND METHODS

1185 Avenue of the Americas
New York, New York 10036
July 14, 2008

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION
UNDER 37 C.F.R. §1.137(b)**

This Petition is submitted to revive the above-identified unintentionally abandoned application. A Notice of Abandonment was issued May 30, 2008 indicating that the subject application is abandoned for applicant's failure to timely file a reply to the Final Office Action mailed on November 14, 2007. A copy of the May 30, 2008 Notice of Abandonment is attached as **Exhibit A**. Applicant is filing this Petition promptly after becoming aware of the abandonment.

Requirements of Petition to Revive

A petition under 37 C.F.R. §1.137(b) must be accompanied, in relevant part, by:

- (1) the required reply to the outstanding Office Action;
- (2) the petition fee set forth in 37 C.F.R. §1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and

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- (4) any terminal disclaimer (and fee set forth in §120(d)) required pursuant to 37 C.F.R. §1.137(d) for a utility application filed before June 8, 1995.

Required Reply Under 37 C.F.R. §1.137(b) (1)

Applicant is submitting herewith a Request for Continued Examination (RCE) as **Exhibit B**, and an Amendment in Response to the outstanding November 14, 2007 Office Action as **Exhibit C**, as the Required Reply Under 37 C.F.R. §1.137(b) (1).

Petition Fee Required Under 37 C.F.R. §1.137(b) (2)

The fee for filing the Petition to Revive under 37 C.F.R. §1.137(b) (2) as set forth in 37 C.F.R. §1.17(m) is \$770.00 for a small entity. The fee for a R.C.E under 37 C.F.R. §1.114(a) as set forth in 37 C.F.R. §1.17(e) is \$405.00 for a small entity. Accordingly, applicant encloses a check of ONE THOUSAND ONE HUNDRED AND SEVENTY-FIVE DOLLARS (\$1,175.00), which includes these amounts.

Statement that the Entire Delay in Filing the Required Reply was Unintentional Under 37 C.F.R. §1.137(b) (3)

The entire delay in filing the required reply, i.e. from the due date of the November 14, 2007 Final Office Action until the filing of this Petition, was unintentional.

Terminal Disclaimer Under 37 C.F.R. §1.137(b) (4)

Because the subject application was filed on September 19, 2003, which is after June 8, 1995, a terminal disclaimer is not required under 37 C.F.R. §1.137(d).

Summary

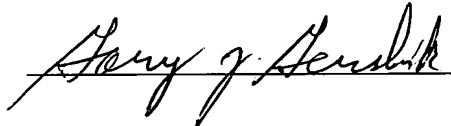
In view of the foregoing, applicant earnestly solicit an expeditious revival of the subject application.

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If a telephone interview would be of assistance in resolving any issue in connection with this petition, applicant's undersigned attorneys invite the Examiner to telephone them at the number provided below.

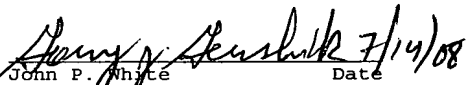
No fee, other than the enclosed \$1,175.00 (which includes \$770.00 Petition to Revive fee set forth in 37 C.F.R. §1.17(m) and \$405.00 R.C.E. fee set forth in 37 C.F.R. §1.17(e)) is deemed necessary in connection with the filing of this Petition. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


John P. White
Reg. No. 28,678
Gary J. Gershik
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Date

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EXHIBIT B



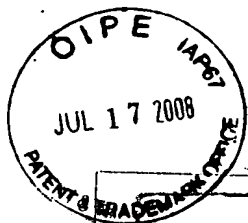
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|--------------------------|------------------------|------------------|
| 10/665,847 | 09/19/2003 | Dominique Toran-Allerand | 0575/66236/JPW/AJM/DNS | 8389 |
| 7590 | | 05/30/2008 | | |
| John P. White Cooper & Dunham LLP 1185 Avenue of the Americas New York, NY 10036 | | | | |
| | | | | |
| EXAMINER | | | | |
| BASI, NIRMAL SINGH | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1646 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 05/30/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



RECEIVED
PROCESSOR

Notice of Abandonment

IN-3-011

Application No.

10/665,847

Applicant(s)

TORAN-ALLERAND, C.
DOMINIQUE

Examiner

NIRMAL S. BASI

Art Unit

1646

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 14 November 2007.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

/Gary Nickol/
SPE, AU1646

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office

EXHIBIT C